IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7235 OF 2004

Dhotre Audumber Pandurang & Ors... Petitioners
Versus
State of Maharashtra & Ors. .. Respondents.

Mr.A.M.Joshi for petitioners
Mr.Y.D.Mulani, A.G.P. for respondents.

CORAM : A.P.SHAH AND
S.C.DHARMADHIKARI, JJ.
DATE : 29th OCTOBER 2004.

P.C.

1. Rule. By consent rule made returnable forthwith. Respondents waive service. Service on respondent Nos. 4 and 5 dispensed with. Heard learned Counsel for parties.

2. Petitioners are aggrieved by an order dated 10th March 2004 passed by Education Officer (Secondary), Z.P. Solapur cancelling the approval granted to their appointments.

3. An advertisement came to be issued on

22nd May 2002 inviting applications for three posts of Shikshan Sevaks and two posts of non teaching staff viz., one clerk and one peon. This advertisement was issued by respondent Nos. 4 and 5. It is contended that pursuant to this advertisement, petitioners applied and they were accordingly appointed as Shikshan Sevaks, clerk and peon respectively. Resolution to that effect was passed by the Management on 19th June 2002. It is their case that they actually joined and started serving the institution. Thereafter, a proposal was sent to the Education Officer, Z.P. Solapur for approval to the appointment of petitioners. He granted approval by his order dated 27th February 2004 (Exh.E). Thereafter, petitioners expected that their salaries would be paid from the grants that would be released as per the Grant in Aid code.

4. However, it appears that there were disputes in the institution and complaints were made to the Dy.Director. The Education Officer, acting on such complaints and without any notice to the petitioners, cancelled the orders granting approval to the appointments. It is this order

which is impugned in the present petition.

5. When this matter appeared before us on 8th October 2004, learned A.G.P. sought time to take instructions and file reply. At his request, the matter was adjourned to 25th October 2004.

6. On 25th October 2004, at the request of the learned A.G.P. matter was once again adjourned to 29th October 2004. However, no affidavit in reply was filed on that date.

7. Having perused the impugned order, we are satisfied that it is wholly unsustainable. Admittedly, petitioners were appointed pursuant to an advertisement by the Management and a proposal was sent for approval of the appointments. It is not in dispute that approval was granted as above. Therefore, once approval was granted to the appointments, subsequently discrepancies/ lapses being noticed in the selection process, it was open for the Education Officer to initiate proceedings for withdrawal/ cancellation of the approval but it was incumbent

upon him to have atleast put petitioners to notice and give them opportunity before any decision adverse to them is reached. We see substance in the ontentions of learned Counsel appearing for petitioners that once approval was granted by the Education Officer, then at the instance of the Dy.Director he could not have withdrawn the approval and that too without hearing the petitioner. Nothing has been brought to our notice which enables the Deputy Director to direct the Education Officer to cancel his earlier order in such a manner. On this short ground alone, petition deserves to be allowed. Accordingly, we quash and set aside the order dated 10th March 2004 passed by respondent No.1 and restore the earlier order dated 27th February 2004. Needless to clarify that our order does not prevent the auhorities from initiating appropriate steps in accordance with law in case they are satisfied that there are deficiencies and lapse on the part of the management.

8. Petition is made absolute in the above terms with no costs.

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